HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.NO. 19132 OF 2006

DATED: 15.9.2006

Between:

Nellore Masthanaiah

… Petitioner

and

The Government of A.P., represented by its
Principal Secretary, Revenue (Endowments)
And others

… Respondents

HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.NO.19132 OF 2006

ORAL ORDER:

The petitioner assails the conduct of an auction for grant of leasehold rights of land in an extent of Ac.2.00 in Sy.No.145 of North Mopur village, Allur Mandal, Nellore District, an agricultural property belonging to the 3rd respondent-Sri Varadaraja Swamyvari Devasthanam, North Mopur village, Allur Mandal, Nellore District.

The petitioner claims to have been in possession of this land, to be cultivating it, to be raising paddy crop and paying annual Maktha regularly to the Devasthanam, since long; the lease stated to have been orally granted since 1985. The petitioner does not plead, establish or demonstrate that he is a lawful cultivating tenant of the Devasthanam lands, under a lease duly executed.

Rule 7 of the A.P. Charitable and Hindu Religious Institutions and Endowments Lease of Agricultural Lands Rules, 2003 (for short 'the Rules') and the provisions of similar rules earlier to these; whether made under the A.P. Charitable and Hindu Religious Institutions and Endowments Act, 1966 or under the A.P. Charitable and Hindu

Religious Institutions and Endowments Act 1987 (for short 'the New Act'), as well as the general principles of Administrative Law and authoritative precedents, obligate Endowment properties to be alienated including by way of lease only by a transparent public process in a manner which would ensure the fetching of a competitive return on Endowment properties and not by clandestine and sub-rosa private understandings between Endowment officers or managers of temples and private individuals. The unauthorized occupation of the Endowment lands by the petitioner without a lease deed executed in his favour by or on behalf of the Endowment after following the due process of law; substantive and procedural, would not elevate the occupation of the petitioner to the status of a cultivating tenant as understood by the provisions of the New Act. There is no exclusion in this principle by the mere fact that the petitioner is in such an unauthorized occupation since 1985 or times immemorial. The petitioner does not claim any prescriptive title or ownership to the lands in question.

In the circumstances above, as the petitioner is not a cultivating tenant within the meaning of the said expression qua Section 82 of the New Act or the Rules, the petitioner cannot be considered a landless poor person for the benefits under Section 82 of the Act. As he is an encroacher, as is apparent, he cannot resist the impugned notification issued by the 3rd respondent-Devasthanam, proposing conduct of a public auction for grant of leasehold rights of its lands. The petitioner has no locus standi to claim any such relief.

On the analysis above, there are no merits. The writ petition is

dismissed. The respondents are at liberty to take appropriate proceedings for the petitioner's eviction in accordance with law, including under Section 83 of the Act. There shall be no order as to costs.

---------- **GODA RAGHURAM, J**

Date: 15.9.2006
Note: CC by Monday
Bo cvm